

**The Commonwealth of Massachusetts  
The Trial Court  
Probate and Family Court Department  
Administrative Office  
Two Center Plaza, Suite 210  
Boston, MA 02108**

**Probate and Family Court Law Clerk  
Position Description and Application  
September 1, 2006 - August 31, 2007**

**Posting Dates: July 6, 2005 through September 30, 2005**

**Position Description:** A judicial clerkship in the Massachusetts Probate and Family Court offers a unique, exciting and rewarding environment in which to begin a legal career. The Probate and Family Court hears cases on subjects relating to all aspects of a person's life, from birth to death. Law clerks in the Probate and Family Court are exposed to a wide variety of family, probate and equity issues, including adoption, paternity, custody, divorce, guardianships, petitions to partition real estate, trust reformations and will contests. The law in these areas is constantly evolving and cases of first impression often confront the court, making a clerkship experience in the Probate and Family Court interesting and challenging.

Law clerks work directly with the Justices, and under the supervision of the Administrative Attorney for Legal Research Services and the Chief Justice. Law clerks conduct research, write legal memoranda, and draft findings of fact, conclusions of law, judgments and orders. In addition, law clerks have the opportunity to observe hearings and trials which expose them to court procedure and evidentiary issues.

Law clerks in the Probate and Family Court serve a one-year term. Each spring, a select number of law clerks are invited to return for an additional year.

Law clerks apply to serve in either Eastern or Western Massachusetts. The majority of opportunities to serve are in Eastern Massachusetts. All law clerks are assigned on a rotating basis to three rotations of four months each. In Eastern Massachusetts, the law clerks serve in any of the following eight divisions: Bristol, Barnstable, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester. Law clerks in Eastern Massachusetts may also be assigned to the Administrative Office. In Western Massachusetts, law clerks are assigned to the Berkshire, Hampshire, Hampden, and Franklin Divisions. The rotation system gives law clerks the opportunity to work with numerous judges and to gain a fuller understanding of the workings of the Probate and Family Court.

**Position requirements and qualifications:** The Probate and Family Court invites well-rounded and distinguished law students, recent law school graduates and practicing attorneys to apply for the clerkship positions. Solid academic credentials are important, however, there are no rigid requirements regarding class rank or standing. Courses in probate and/or family law, research assistant positions, prior work experience in the area of probate and family law and clinical placements/internships are considered important and are viewed quite favorably.

The Probate and Family Court seeks applicants who: demonstrate an interest in probate and/or family law; possess an ability to write legal memoranda clearly and concisely; possess knowledge of legal research techniques and court procedures and practices; possess an ability to establish working relationships with Justices; possess an ability to adjust to different courthouse environments and personnel; will commit in writing to serve for the entire one-year term; possess a law degree from an ABA accredited law school as of September 1, 2006, or are statutorily eligible to sit for the Massachusetts Bar Exam; are residents of the Commonwealth of Massachusetts for the duration of the law clerk term; and have access to a motor vehicle for travel to court locations throughout the Commonwealth.

**Salary:** \$ 43,028.81 annual salary. (Level 16, Step 1).

**AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER**

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**SECTION A: Preparation of the Application Package**

**Please read the following instructions carefully. Incomplete or late application packages will not be considered.**

Each applicant must submit **four sets** (an original and three copies) of the following materials, which will constitute the "Application Package." The application package must be stapled and collated in the following order ("1." on top):

**1. Cover letter**

In a one page cover letter, please explain your interest in a judicial clerkship with the Probate and Family Court. Briefly outline your background, if any, in probate and/or family law. Please indicate whether you are applying to serve in Eastern Massachusetts or Western Massachusetts.

**2. Massachusetts Trial Court Application for Employment Form**

The Trial Court application form is available at any Massachusetts state courthouse. The form may be also downloaded by going to [www.mass.gov/courts/site/index.html](http://www.mass.gov/courts/site/index.html), and clicking on "Application for Employment." The form must be completed in its entirety, unless a section is specifically noted as voluntary.

**3. Resume**

**4. Law School Transcript**

An unofficial transcript may be submitted with the application package. When submitting the application package, please do not have your law school forward your transcript separately. Your transcript must be included in your application package.

If offered a law clerk position, prior to the commencement of employment in September 2006, an official law school transcript is required to verify your final academic record and date of graduation.

**5. Writing Sample**

Each applicant must submit a writing sample based upon one of the three factual scenarios included in Section C of this application. The writing sample shall consist of a six-page memorandum of law on one of the factual scenarios on pages four through five of this Position Description and Application. Please do not send any other writing sample. Please note the following guidelines:

- a. Apply only Massachusetts law.
- b. The writing sample may not exceed six pages. It must be typed and double-spaced.
- c. The writing sample must be the original work of the applicant and may not be edited by another party.

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**SECTION B: Submission of the Application Package**

Please submit the completed application package (**four sets, consisting of the original application package and three copies**) to the address below:

**PROBATE AND FAMILY COURT ADMINISTRATIVE OFFICE**  
**Attention: Denise M. Fitzgerald, Administrative Attorney for Legal Research Services**  
**Two Center Plaza, Suite 210**  
**Boston, MA 02108**

1. The application package as described in Section A must be **postmarked** no later than **Friday, September 30, 2005**. Late application packages will not be considered.
2. Please do not submit an incomplete application package. Amendments or additional information will not be accepted. Incomplete application packages will not be considered.
3. Please do not fax or e-mail any portion of the application package. Faxes and e-mails will not be considered.
4. Please do not telephone the Administrative Office with inquiries regarding the receipt of your application package. If you would like acknowledgment of the receipt of your application, please include a self-addressed, stamped envelope with your application package. Please allow ten days for the return of the acknowledgment.

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**SECTION C: Writing Sample Factual Scenarios**

Please choose **one** of the following three factual scenarios upon which to write your memorandum of law for submission as your required Writing Sample. (For specific instructions, please refer to Section A-5 above.)

**Question 1**

Harry and Wanda married in 1988. They had three children together: a set of twins, Lily and Logan, born in 1989, and a daughter, Hannah, born in 1992. The parties divorced in 1997. At the time of the divorce, Husband earned approximately \$250,000 per year working in the banking industry. Wanda did not work outside of the home. The parties agreed that the three children would live with Wanda in the marital home which was a modest, three-bedroom house and that Harry would pay child support to Wanda in the sum of \$5,000 per month. Five years after the parties divorced, Wanda married George. Wanda, George, Lily, Logan and Hannah currently live together in the former marital home. George earns approximately \$150,000 per year. Over the years since the divorce, Wanda considered working outside of the home, but instead remains a homemaker. Harry never remarried after the parties' divorce. He is still employed at the same company as in 1997 and now earns \$750,000 per year. Harry lives alone in a palatial property that overlooks the Atlantic Ocean. He vacations frequently and has a collection of sailboats. Lily, Logan and Hannah are bright and engaging children. Lily and Logan attend public high school and are interested in participating in the many activities the school offers. Hannah has indicated that she would like to attend a private high school that many of her friends will be attending. In July of 2005, Wanda filed a complaint for modification alleging that Harry's income had increased, as had the needs of the children. Wanda is seeking an increase in child support, as well as contribution from Harry for the educational expenses of all three children.

Judge Leilaninski is unsure of how she should proceed on this matter and has asked you to do the following:

1. Review and analyze the relevant law to determine how the judge might rule on Wanda's request for increased child support.
2. Review and analyze the relevant law to determine whether the judge has the authority to order Harry to contribute to the educational expenses for Lily, Logan and/or Hannah.

**Question 2**

Fanof DeSox, his wife Bjornfor, and their one-year-old twin sons, David and Pedro, emigrated from a Spanish-speaking country to Massachusetts in 1975. Along with many of their family members and fellow countrymen, they settled in a Boston suburb in Fenway County. In 1980, Fanof and Bjornfor met with a local attorney, Jerek Deter, who was then sixty years old, to draft their respective wills. Attorney Deter, who was fluent in Spanish, was well-known in the Fenway County community for providing legal services to many of the community's members in their native language. Attorney Deter drafted Fanof's and Bjornfor's wills. Both wills, properly executed and attested to in 1980, appointed Attorney Deter as executor. In October of 1986, Fanof unexpectedly suffered a heart attack and died while watching a baseball game on television. The probate of Fanof's estate was handled by Attorney Deter with no objection from Bjornfor or any other party. After this, Bjornfor and her sons had no contact with Attorney Deter. Bjornfor continued to live with her twin sons in Boston until the sons moved to New York following their graduation from college in 1997. In her sons' absence, Bjornfor's adult niece, Nanette, often visited with Bjornfor. Living in Fenway County with her own family, Nanette helped Bjornfor with errands and housework. On a late night in October of 2004, Bjornfor died peacefully in her bed while listening to a local sports radio broadcast. Following their mother's death, David and Pedro made the trip home to take care of her affairs and to be with their friends and extended family. Nanette, David and Pedro found a copy of Bjornfor's will in her home. Under the provisions of her will, David and Pedro were Bjornfor's only heirs and Attorney Deter had been named the executor. It is undisputed that David and Pedro would prefer to have Nanette be appointed the administrator of the decedent's will. Unsure of how to proceed, David and Pedro hired an attorney, Tess Ruth. Because

of David and Pedro's wishes, Attorney Ruth suggested that Attorney Deter decline the nomination as executor. Attorney Deter would not comply with Attorney Ruth's request. In November of 2004, the Fenway County Probate and Family Court approved and allowed Bjornfor's will with Attorney Deter appointed as executor of the will. At that time, Attorney Deter still maintained an active practice and was cognizant of the contents and status of the decedent's estate. In December of 2005, David and Pedro again consulted with Attorney Ruth concerning their mother's estate. Both alleged that they had recently seen Attorney Deter at his Fenway County office. Although he is still practicing in Fenway County, he did not recognize either David or Pedro nor did he have any recollection of Bjornfor or her estate. During their short encounter at Attorney Deter's office, David and Pedro were surprised at his hostility toward them and also at his disheveled appearance. Additionally, a local newspaper had just published a story featuring the rise and fall of Attorney Deter in Fenway County. Despite his loyal client following in Fenway County, Attorney Deter had recently come under investigation by the local attorney misconduct committee. On behalf of David and Pedro, Attorney Ruth has filed a petition for the removal of Attorney Deter as executor in the Fenway County Probate and Family Court.

Judge Pudge, a Fenway County Probate and Family Court judge, has come to you and asked for clarification on this matter. More specifically, he has asked you to review the relevant law and advise him as to how to proceed with regard to the following:

1. Was the appointment of Attorney Deter as the executor of Bjornfor's will proper?
2. How should Judge Pudge rule on David and Pedro's petition for removal of Attorney Deter as executor?

### **Question 3**

Barry, a dance instructor, met Gloria in 1995 when she signed up for dance lessons at his studio. Enamored by each other's personalities and dance moves, they began dating shortly thereafter. Within six months, Gloria moved into Barry's apartment in Travolta County, Massachusetts. Gloria had previously lived with her mother, Donna, in Astaire County, Massachusetts. After Gloria and Barry moved in together, Barry became increasingly possessive and jealous when they would go out for their bi-weekly dancing date. One evening in 1996, Barry became irate when he saw Gloria dancing with another man. He pulled the two of them apart and pushed Gloria so hard toward the exit that she fell to the floor. Even though Gloria was upset about what happened that night, Barry and Gloria continued to live together. In 1997, Barry and Gloria had a child together, a son, Mikhail. Both Barry and Gloria loved Mikhail very much, but the strain of caring for a young child and the disruption it caused to their normal dancing routine negatively affected their relationship. When Mikhail turned six, Barry thought it was time for Mikhail to begin taking formal dance lessons at the studio. Gloria disagreed as she did not think that Mikhail should follow in Barry's footsteps. This difference of opinion between Barry and Gloria upset him greatly. As a result, Barry would leave Gloria and Mikhail at night to go dancing. On several occasions, before storming out of the apartment, Barry would slam the doors and shout at Gloria, "Why don't you let me raise my son my way? I can do it better than you! Why do you want to hurt him by raising him your way? I'm going to get you for this!" One time, in June of 2004, Barry shouted similar sayings at Gloria and pushed her into a wall in the apartment. On June 28, 2005, Barry left alone to go dancing again, yelling obscenities at Gloria as he departed. The next day, Gloria left the apartment with Mikhail and moved back in with her mother, who had recently moved to Rogers County, Massachusetts. At Donna's urging, Gloria went to the Probate and Family Court in Rogers County seeking a protective order against Barry. In her affidavit, Gloria outlined all of the above incidents. Judge Jackson, a Rogers County Probate and Family Court judge, issued a protective order against Barry on July 1, 2005. The order prohibited him from contacting both Gloria and Mikhail. Ten days later, both Barry and Gloria appeared before Judge Jackson with counsel. Counsel for Gloria requested an extension of the protective order against Barry. Counsel for Barry stated that Barry was eager to tell his side of the story: that he never hit Gloria and that she has never been afraid of him. Barry also believes that the protective order should never have been granted and is concerned because it is affecting his personal and business reputation. Barry's attorney also informed the Court that Barry would like custody and/or visitation with Mikhail. Judge Jackson took the matter under advisement without hearing testimony from Gloria or Barry.

Judge Jackson has asked you to review the relevant law and advise him as to how to proceed with regard to:

1. Gloria's request to extend the protective order;
2. Barry's assertion that the protective order should not have entered at all; and
3. Barry's request for custody and/or visitation.